IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 10469 of 2006(U)

PETITIONER:

1. **SREEKUMAR P.R.,**
   H.S.S.T. COMMERCE, T.D. H.S.S.,THIRUMALABHAGOM P.O
   THURAVOOR, CHERTHALA.
2. **BINO JOSE,**
   H.S.S.T. COMMERCE, HOLY FAMILY H.S.S.,
   MUTTOM, CHERTHALA.
3. **BIJUMON P.J.,**
   H.S.S.T. SOCIAL WORK, ST.MICHAEL'S H.S.S.,
   KUDAVECHOOR, VAIKOM.
4. **RAJEEV KUMAR M.R.,**
   H.S.S.T. COMMERCE (JUNIOR), NAIR SAMAJAM H.S.S.,
   MANNAR, ALAPPUZHA.
5. **LINTA VARGHESE T.,**
   H.S.S.T. COMMERCE, M.D. SEMINARY H.S.S.,KOTTAYAM.
6. **GEETHA PRABHU D.,**
   H.S.S.T. COMMERCE, T.D. H.S.S., THIRUMALABHAGOM,
   THURAVOOR, CHERTHALA.
7. **GEORGEKUTTY Y.,**
   H.S.S.T. JUNIOR (COMMERCE), M.T.SEMINARY H.S.S.,
   KOTTAYAM.
8. **K. YAZHINBAM,**
   H.S.S.T. ENGLISH, H.S.S. KANDAMANGALAM,CHERTHALA.
9. **JAYA THOMAS,**
   H.S.S.T. COMMERCE, J.J.M.M.H.S.S.,
   YENDAYAR, KOTTAYAM.
10. **MATHU PRAKASH K.A.,**
    H.S.S.T. SOCIOLOGY, ST.GORETTY H.S.S.,PUNALUR.

BY ADV. SRI.BENOY THOMAS

RESPONDENTS:

1. **STATE OF KERALA,**
   REPRESENTED BY SECRETARY, GENERAL EDUCATION,
   SECRETARIAT, TRIVANDRUM.

2. **DIRECTOR OF HIGHER SECONDARY EDUCATION,**
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.T.T.MUHAMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.C.NO.10469 OF 2006

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE ORDER DATED 12-07-05**
EXT.P1(A)	**TRUE COPY OF THE GOVT. ORDER DATED 30-04-05**
EXT.P1(B)	**TRUE COPY OF THE GOVT. ORER DATED 20-05-05**
EXT.P1(C)	**TRUE COPY OF THE GOVT. ORDER DATED 19-04-05**
EXT.P1(D)	**TRUE COPY OF THE GOVT. ORDER DATED 2-3-05**
EXT.P1(E)	**TRUE COPY OF THE GOVT. ORDER DATED 7-7-04**
EXT.P1(F)	**TRUE COPY OF THE GOVT. ORDER DATED 5-9-05**
EXT.P1(G)	**TRUE COPY OF THE GOVT. ORDER DATED 12-1-04**
EXT.P1(H)	**TRUE COPY OF THE GOVT. ORDER DATED 21-8-03**
EXT.P2	**TRUE COPY OF THE NOTIFIACTION DATED 11-5-05**
EXT.P3	**TRUE COPY OF THE CIRCULAR DATED 3-6-02**
EXT.P4	**TRUE COPY OF THE GOVT. ORDER DATED 6-9-99**
EXT.P5	**TRUE COPY OF THE REPRESENTATION FILED BY THE FIRST PETITIONER.**
EXT.P6	**TRUE COPY OF THE LETTER DATED 19-11-05 ISSUED BY R1**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).No. 10469 OF 2006

Dated this the 8th day of December,2006.

JUDGMENT

Case of the petitioners in brief is as follows:

They were approved as Higher Secondary School Teachers. They availed leave without allowance for doing B.Ed training course. They rely on 3rd proviso to Rule 33(b)(2) of Part I KSR, according to which it is their case that they are entitled to increment. The Government has deleted the 3rd proviso to Rule 33(b)(2) Part 1 KSR with effect from 11-05-05. But it does not have retrospective effect. Petitioners availed leave prior to the amendment. Therefore they are entitled to 3rd proviso to Rule 33(b)(2) in regard to the leave availed by them.

2. First petitioner filed Ext.P5. But that was rejected by Ext.P6. In Ext.P6 reference is made to deletion of Rule 33 (b)(2). Bu the case of the petitioners is that the deletion cannot have retrospective effect and as long as it stood, the question is covered in their favour in view of the judgment of this court in W.P.(C)No.26782/05.

3. I heard learned Government Pleader also.

4. I feel that in the light of the decision of this court in W.P.(C)No.26782/05, the matter has to be re-considered. Accordingly, Ext.P6 is quashed and the first respondent will consider the matter

bearing in mind the judgment of this court in W.P.(C)No. 26782/05.

5. Petitioner will produce a copy of the judgment in W.P.(C)No.26782/05 along with a copy of this judgment before the first respondent. Upon receipt of the same, first respondent will consider and take a decision in accordance with law as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

K.M.JOSEPH.
JUDGE.

sv.